(16,675.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 172.

THOMAS COSGROVE, APPELLANT,

vs.

EUGENE D. WINNEY, UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JULY 7, 1898.

a The District Court of the United States for the Eastern District of Michigan.

In the Matter of the Petition of THOMAS COSGROVE for a Writ of *Habeas Corpus.*

Transcript of Record on Appeal.

1 Transcript of Record.

Pleas of the district court of the United States for the eastern district of Michigan, begun and held at the district court room, in the city of Detroit, in said district, on the first Tuesday of March, in the year of our Lord one thousand eight hundred and ninety-seven.

Be it remembered that on the third day of March, in the year of our Lord one thousand eight hundred and ninety-seven, Thomas Cosgrove, by E. H. Sellers, his attorney, came into said court and filed a petition for a writ of *habeas corpus*, which said petition is in the words and figures following, to wit:

UNITED STATES OF AMERICA:

In the District Court of the United States for the Eastern District of Michigan, Southern Division.

In the Matter of the Petition of THOMAS COSGROVE for a Writ of *Habeas Corpus.*

To the Hon. Henry H. Swan, judge of said court:

Your petitioner, Thomas Cosgrove, a resident of Sarnia, Ontario, Dominion of Canada, respectfully shows that he is now imprisoned and restrained of his liberty by Eugene D. Winney, United States marshal for the eastern district of Michigan, in the county jail at Detroit, said county being within said eastern district, southern division, for the supposed criminal offense, to wit, that named in the warrant, a copy of which is hereto attached.

Your petitioner further states and shows that, as he is advised by his counsel, E. H. Sellers, and to whom he has fully and fairly stated the facts and circumstances of the case, and as your petitioner verily believes, the said imprisonment is illegal, and that such illegality consists in this, to wit:

That, at the time your petitioner was arrested under the warrant issuing out of this court and by which he was arrested and imprisoned, he was under arrest caused by a complaint lodged in and warrant issued out of the police court of the city of Detroit, in said
2 county of Wayne, said complaint and warrant bearing date Nov. 7, 1895, and was, under said warrant, immediately taken into custody in said province of Ontario, Canada, and a requisition thereafter was made by Grover Cleveland, President of the

United States of America, upon the Canadian government for the extradition of your petitioner; that in pursuance thereof, afterwards, beginning, to wit, on February 29, 1896, and continuing at intervals until April 15th, 1896, your petitioner was examined by the Hon. John A. McKenzie, of the township of Sarnia, county of Lambton, province of Ontario, Dominion of Canada, the said McKenzie being judge in the county court of the said county of Lambton, on the charge of larceny, the offense named in the complaint and warrant issuing out of said police court of the said city of Detroit, and upon the application to commit your petitioner for extradition for the said crime of larceny; that on, to wit, the 15th day of April, A. D. 1896, the said judge, to wit, the Hon. John A. McKenzie, ordered your petitioner to be committed and to be handed over to the authorities of the said city of Detroit; and thereupon a warrant of extradition issued upon the order of said Judge McKenzie for your petitioner's surrender, and on said warrant of extradition your petitioner was brought before said police court of the city of Detroit, and was there examined and held on said charge of larceny in June, 1896, and was bound over for appearance and trial in the recorder's court of the city of Detroit at the July term, 1896, of said recorder's court, by the said judge of said police court, where your petitioner has been held for trial by said recorder's court, but has not been tried, released or discharged by said recorder's court, and is still in the custody of said recorder's court, although your petitioner has often requested to be placed on trial before said recorder's court on said charge of larceny.

Your petitioner further shows that the crime for which he is detained under a warrant issued from this court is alleged to have been committed (if committed at all) prior to your petitioner's extradition from said Dominion of Canada to said State court for the alleged crime of larceny, which your petitioner is advised by his said counsel, and believes, is illegal for the reason that your petitioner having been brought within the jurisdiction of said police and recorder's court at the city of Detroit, by virtue of the proceeding under the extradition treaty between Great Britain and the United States, can only be tried for the offense for which he is charged in the proceeding for his extradition; nor can your
3 petitioner be tried or triable for any offense alleged to have been committed prior to the extradition offense of larceny, for which your petitioner shows he was surrendered to the police court of the city of Detroit, until your petitioner shall have had a reasonable time and opportunity, after his release or trial upon such charge, to return to the province of Ontario, Canada, as provided by said treaty and the laws governing his surrender under said extradition proceedings.

Wherefore, your petitioner prays that a writ of *habeas corpus* may be issued to inquire into the cause of his said imprisonment and detention, and that he may be relieved therefrom.

And your petitioner will ever pray, etc.

THOMAS COSGROVE.

EASTERN DISTRICT OF MICHIGAN, } ss:
Southern Division, }

On this 3rd day of March, 1897, personally appeared before me a notary public in and for the county of Wayne, Thomas Cosgrove, known to me to be the person who subscribed the foregoing petition, and made oath that he had read said petition and knows the contents thereof, and that the same is true.

GEORGE G. SCOTT,
Notary Public, Wayne County, Michigan.

Grover Cleveland, President of the United States of America, to John F. Troy:

Whereas, it appears by information in due form by me received that Thomas Cosgrove, charged with the crime of larceny, is a fugitive from the justice of the United States, now in Canada;

And whereas, application has been made to the British authorities for the extradition of said fugitive, in compliance with existing treaty stipulations between the United States of America and Great Britain;

And whereas, it is understood that, in compliance with such application, the necessary warrant is ready to be issued by the authorities aforesaid for the delivery of the above-named fugitive into the custody of such person or persons as may be duly authorized to receive the said fugitive and bring him back to the United States for trial:

Now, therefore, you are hereby authorized and empowered, in virtue of the stipulations aforesaid, and in execution thereof,
4 to receive the said Thomas Cosgrove, as aforesaid, and to take and hold him in your custody, and to conduct him from such place of delivery in Canada, by the most direct and convenient means of transportation, to and into the United States, there to surrender the said Thomas Cosgrove, to the proper authorities of the State of Michigan.

For all of which these presents shall be your sufficient warrant.

In testimony whereof I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington this 9th day of May, A. D., 1896, and of the Independence of the United States the one hundred and twentieth.

[SEAL.] GROVER CLEVELAND.

By the President: RICHARD OLNEY,
Secretary of State.

CANADA:

To the keeper of the common gaol of the town of Sarina, in the province of Ontario, and to John F. Troy:

Whereas, Thomas Cosgrove, accused of the crime of larceny committed within the jurisdiction of the United States of America, was delivered into the custody of you, the keeper of the said common

gaol at the town of Sarina aforesaid, by warrant of his honor, John A. MacKenzie, junior judge of the county of Lambton, in the province of Ontario, dated the fifteenth day of April in the year of our Lord, one thousand eight hundred and ninety-six, pursuant to "the extradition act," there to await surrender to the said United States of America.

Now, I do hereby, in pursuance of the said act, order you, the said keeper, to deliver the said Thomas Cosgrove into the custody of the said John F. Troy, and I command you, the said John F. Troy, to receive the said Thomas Cosgrove into your custody and to convey him within the jurisdiction of the said United States of America and there place him in the custody of any person or persons appointed by the said United States of America to receive him.

For which this shall be your warrant.

Given under the hand and seal of the undersigned minister of justice of Canada, this nineteenth day of May, in the year of our Lord one thousand eight hundred and ninety-six.

[SEAL.] E. L. NEWCOMBE,
Deputy Minister of Justice for the Minister of Justice.

5 Warrant under "the extradition act." To the keeper of the common gaol of the town of Sarnia, in the province of Ontario, and to John F. Troy *vs.* Thomas Cosgrove. Dated 19th May, 1896. Recorded 20th May, 1896. Lib. 113, folio 460. Joseph Pope, dep. register general of Canada.

STATE OF MICHIGAN, } *ss:*
County of Wayne, }

To the superintendent or any captain, sergeant, roundsman, detective, or patrolman of the Metropolitan police force of the city of Detroit, in said county, Greeting:

Whereas, Eugene D. Winney hath this day made complaint to the undersigned, Albert F. Sellers, one of the police justices of the city of Detroit, in said county, that heretofore, to wit, on or about the 27th day of October, A. D. 1895, at the city of Detroit, in the county aforesaid, Thomas Cosgrove and William Robinson did feloniously steal, take and carry away of the personal property, goods and chattels of Eugene D. Winney from the possession of him the said Eugene D. Winney then and there being found one boat (named "Aurora") tackle, apparel, and furniture of the value of one thousand dollars.

And whereas, on examination, on oath, of said complainant by me, the said police justice, it appears to me that said offense has been committed, and there is just cause to suspect the said accused parties to have been guilty thereof; therefore,

In the name of the people of the State of Michigan, you and each of you are hereby commanded forthwith to take the said accused parties and them bring before the police court of the city of Detroit at the police-court building, in the said city of Detroit, to be dealt with according to law.

Witness the Hon. John B. Whelan, senior police justice of the police court of the city of Detroit.

Given under my hand and seal, at the city of Detroit, in said county, on the 7th day of November, A. D. 1895.

[SEAL.] ALBERT F. SELLERS,
Police Justice of the City of Detroit.

The President of the United States of America to the marshal of the eastern district of Michigan, Greeting:

You are hereby commanded, that you take Thomas Cosgrove, if he shall be found in your district, and him safely keep, so
6 that you may have his body in the district court of the United States of America, for the eastern district of Michigan, to be held at Detroit, in the said district, before the judge of the said court, forthwith to answer unto the United States of America upon an indictment which has been exhibited and filed by the grand jurors from said district, against him on a charge of obstructing U. S. marshal in the execution of writ of attachment. And have you then and there this writ.

Witness, the Honorable Henry H. Swan, judge of the district court of the United States for the eastern district of Michigan, this third day of December, in the year of our Lord one thousand eight hundred and ninety-five, and of our Independence the one hundred and twenty-first.

[SEAL.] D. J. DAVIDSON, *Clerk.*

EASTERN DISTRICT OF MICHIGAN, *ss:*

I hereby certify and return, that on the 14th day of December, 1896, in obedience to the within writ, I did arrest the within-named Thomas Cosgrove, and now have him in my custody, awaiting the further order of the court.

EUGENE D. WINNEY, *Marshal,*
By JACOB BERNATZ, *Deputy.*

No. 4404. District court of the United States for the eastern district of Michigan. Capias. The United States of America *vs.* Thomas Cosgrove. Returnable forthwith. Returned and filed December 26, 1896. D. J. Davidson, clerk.

District court of the United States for the eastern district of Michigan, southern division. In the matter of the petition of Thomas Cosgrove for a writ of *habeas corpus.* E. H. Sellers, attorney for petitioner. Cassius Hollenbeck, of counsel.

That afterwards, and on the day above mentioned, an order was made by the Honorable Henry H. Swan, judge of said court, and endorsed on said petition in the words and figures following, to wit:

Let a writ issue as prayed herein, returnable at 5 p. m., March 3, 1897.

(Signed) H. H. SWAN,
Dist. Judge.

7 That afterwards and on the 3d day of March, A. D. 1897, a writ of *habeas corpus* was issued pursuant to the order of the court, and was afterwards returned, with the marshal's return thereon endorsed; which said writ and marshal's return are in the words and figures following, to wit:

The District Court of the United States for the Eastern District of Michigan.

The President of the United States of America to Eugene D. Winney, U. S. marshal, eastern district of Michigan, Greeting:

You are hereby commanded that you have the body of Thomas Cosgrove detained in your custody, as it is said, together with the day and name of his caption and detention, in the district court of the United States for the eastern district of Michigan, before the judge thereof, at the district court room, in the city of Detroit, on Wednesday, the third day of March, A. D. 1897, at 5 o'clock p. m., that the said court may cause to be done thereupon what of right and according to law should be done. Hereof fail not but make due return, and have also then and there this writ.

Witness, the Hon. Henry H. Swan, judge of the district court of the United States, for said district at Detroit, in this district, this third day of March, in the year of our Lord one thousand eight hundred and ninety-seven, and of the Independence of the United States of America the one hundred and twenty-first.

[SEAL.] D. J. DAVISON, *Clerk.*

EASTERN DISTRICT OF MICHIGAN, *ss:*

I hereby return that I hold the said Thomas Cosgrove, under and by virtue of a capias issued out of and under the seal of the district court of the United States for the eastern district of Michigan, the third day of December, A. D. 1895, which said copy of writ of capias I produce herewith. I further return that the date of the caption of said Thomas Cosgrove under said capias was the 10th day of December, 1896; the place, Port Huron, in said district and the cause as specified in said capias was a filing of an indictment by the grand jurors for said district against him on a charge of obstructing the United States marshal in the execution of a

8 writ of attachment. The place of detention of said Thomas Cosgrove is the Wayne County jail in Detroit, in said district. That said Thomas Cosgrove at the time of his arrest on said capias was not in custody upon a warrant issued out of the police court of the city of Detroit, as set forth in the petition, but before that time, had entered into a recognizance to appear and answer an information to be filed against him in the recorder's court of the city of Detroit for the offence charged on said warrant, and at the time said Cosgrove was taken into custody upon said capias, he was at large upon bail before then given. And I further return that after said Cosgrove was brought to the city of Detroit by virtue of the extradition proceedings, referred to in his petition for this writ,

and before his arrest upon said capias, he had returned to the Dominion of Canada, and after said return and before his arrest on said capias, he voluntarily came into the United States, to the State of Michigan, and was then found at large after his said voluntary return, and was then arrested upon said capias while so voluntarily in the State of Michigan. I further return that I have the body of said Thomas Cosgrove with me in said court, as within I am commanded.

EUGENE D. WINNEY,
U. S. Marshal,
By A. W. LARGE, *Chief Deputy.*

Afterwards, at a session of the district court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment at the district court room in the city of Detroit in said district, on Wednesday the third day of March in the year of our Lord one thousand eight hundred and ninety-seven.

Present: The Hon. Henry H. Swan, district judge.

In the Matter of the Petition of THOMAS COSGROVE for a Writ of *Habeas Corpus.*

This matter now came on for hearing, and thereupon is argued by counsel and submitted to the court for judgment. And the same having been duly considered, it is now by the court ordered, adjudged and decreed that the said Thomas Cosgrove be, and he is hereby remanded to the custody of the marshal to await trial.

Thereupon counsel for petitioner gives notice of their intention to appeal herefrom.

9 That afterwards, and on the fifth day of April, in the year of our Lord one thousand eight hundred and ninety-seven, the opinion of the court in said matter was filed, and was in the words and figures following, to wit:

The District Court of the United States for the Eastern District of Michigan, Southern Division.

In the Matter of THOMAS COSGROVE, Petitioner for Writ of *Habeas Corpus.*

E. H. Sellers & Cassius Hollenbeck, for petitioner.
A. P. Lyon, U. S. att'y; C. R. Whitman, ass't U. S. att'y.

SWAN, *J.:*

The petition in this cause states in the usual formal manner that the petitioner is unlawfully restrained of his liberty by the marshal of the United States for the eastern district of Michigan; and, after adding the averments necessary to proper pleadings for the relief sought, prays that he may be discharged from the custody of the marshal and be set at liberty. Pursuant to the writ, the marshal produced the petitioner and made and filed his return, which set

forth that the petitioner is held by the marshal under a writ of capias issued upon an indictment found at the November term, 1895, by the grand jury of this district, and that the petitioner had previously been extradited from the Dominion of Canada to answer an information filed in the recorder's court of the city of Detroit, charging him with the crime of larceny. The return further stated that after the extradition of petitioner under said proceedings in the recorder's court, he "had returned to the Dominion of Canada, and after said return and before his arrest by said capias, he voluntarily came into the United States, namely, to the State of Michigan, and was there found at large after his said voluntary return and was then arrested on said capias while so voluntarily in the State of Michigan." It was objected in behalf of petitioner that the return was not verified. The statute does not require the verification of the return. U. S. Rev. Stats., sec. 757, which regulates the action of the person having the petitioner in custody, provides that "the person to whom the writ is directed shall certify to the court or justice or judge before whom it is returnable, the true cause of the detention of such party." This requirement was observed by the marshal in the return. As sec. 754 enacts that the petition shall be verified by the oath of the person making the application, the omission of the like provision as to the return is persuasive of itself that the latter need not be verified. Section 757 is manifestly complied with by the making of the certificate alone. The objection was therefore overruled and the petitioner was granted an exception to the ruling. Petitioner's counsel also duly excepted to the action of the court in refusing to strike out from the return the averment quoted above, that the defendant had returned to the Dominion of Canada before his arrest on the capias issued upon the indictment, and was arrested thereunder while voluntarily in the State of Michigan. It was conceded upon the argument that Cosgrove had returned to Canada after having given bail in the recorder's court, to answer the charge of larceny, and was at large when arrested under the capias, upon bail so given in the recorder's court as aforesaid. The contention on the part of the petitioner is, that having given bail to answer the information in the State court, he could not be lawfully arrested until he had been tried in that court. The authority invoked for this position is article 3 of the extradition convention between the United States and Great Britain, proclaimed March 25, 1890 (26 U. S. Stats at L., 1508, 1509). That article reads as follows: "No person surrendered by or to either of the high contracting parties shall be triable or be tried for any crime or offense committed prior to his extradition other than the offense for which he was surrendered, until he shall have had an opportunity of returning to the country from which he was surrendered." The offense for which the information was filed in the recorder's court and that for which the indictment was found, it is claimed, are practically the same. This can scarcely be maintained, although it appears that the property, for the taking of which he is charged with larceny, was the vessel which, under the indictment in this court, he was charged with having unlawfully taken from

the custody of the United States marshal, while the same was held under a writ of attachment issued from the district court in admiralty.

The same act constituted a crime against the law of a State and the laws of the United States, but an acquittal or conviction in either case would not operate as a bar to the prosecution of the other.

United States *v.* Fox, 5 How.

It is true that petitioner could not be extradited for the violation of the act of Congress committed in taking the property from the custody of the marshal, and it may also be conceded that
11 during his attendance in the recorder's court for the purposes of his trial there, and while going and returning therefrom to his home in Canada, he could not be subjected to trial for the offense committed against the United States. Article 3 of the extradition treaty gives the person extradited immunity from trial, and—by a liberal construction of its language—from arrest for any offense committed prior to his extradition until he should have had an opportunity to return to the country from which he was surrendered. Its design is to protect a person accused of crime against being subjected to extradition for the real purpose of putting him upon trial for an offense not covered by the extradition treaty, and to prevent the convention between the governments from being used as a mere cloak for an ulterior object for which his surrender could not be claimed. To effect this end, the person who has been delivered for trial in either country, is, under its provisions, entitled to a fair opportunity and a reasonable time to return to his home before he should be triable for any other offense whatever committed before his extradition.

The only question which arises under this treaty therefore, is whether upon the facts stated in the return which was not traversed, the petitioner has had the opportunity secured him by that treaty to return to his own country. If he has had such opportunity, then article 3 has not been violated, either in its letter or spirit, by the arrest and detention of the petitioner. It is conceded that he was delivered to the authorities of the State of Michigan in May, 1896, to stand his trial upon the charge of larceny. He gave bail to appear for trial in the recorder's court when required and immediately returned to Canada. On December 10th, 1896, he voluntarily appeared in the State of Michigan, of his own motion, and not upon the order of the recorder's court, or at the instance of his bail, and while in this district was arrested. The facts fail to show any infringement of the rights of petitioner under the convention of 1890.

No reason exists, therefore, for his discharge, and he must be remanded to the custody of the marshal.

Detroit, April —, 1897.

12 Afterwards, on the seventh day of July, A. D. 1897, a claim of appeal was filed in said matter in the words and figures following:

UNITED STATES OF AMERICA:

The District Court of the United States for the Eastern District of Michigan, Southern Division.

In the Matter of the Petition of THOMAS COSGROVE for Writ of *Habeas Corpus.*

Claim of Petitioner for Appeal.

And now comes the above-named petitioner, Thomas Cosgrove, by E. H. Sellers, his attorney, and, feeling aggrieved by the final decision of said court made by this court on March 3, 1897, hereby appeals from the said decision of said court in remanding said petitioner to the custody of the U. S. marshal for said district, and refusing to discharge said prisoner from the custody of said marshal, and denying the prayer of petitioner in the above-entitled proceedings to the U. S. Supreme Court, and herewith presents his assignments of error and asks that this appeal be allowed, and that all the records and proceedings in said cause, including so much and such
13 parts of the files and records of U. S. *vs.* Cosgrove and The People *vs.* Cosgrove and extradition proceedings therewith as are referred to in and covered by said *habeas corpus* proceedings, shall be duly certified to the said U. S. Supreme Court.

Dated Detroit, July 7th, 1897.

E. H. SELLERS, *Attorney for Appellant.*
CASSIUS HOLLENBECK, *Of Counsel.*

Appeal allowed July 7, 1897.

HENRY H. SWAN,
District Judge.

14 Afterwards, on the 7th day of July, 1897, assignments of error were filed in said cause in the words and figures following, to wit:

District Court of the United States for the Eastern District of Michigan, Southern Division.

In the Matter of the Appeal of THOMAS COSGROVE, Petitioner for Writ of *Habeas Corpus.*

Assignments of Error.

Now comes the above-named petitioner, Thomas Cosgrove, by E. H. Sellers, his attorney, and says that in the record of proceedings in said cause and in the rulings, findings and final decision entered therein by said court there is manifest error, as follows:

1. The district court erred in holding that a release of defendant on bail to appear for trial in the recorder's court at Detroit, was such a "release or discharge" as is guaranteed him by the treaty between the United States and Great Britain, and the laws in

furtherance of this treaty granting him "a fair opportunity and a reasonable time to return to his home before he should be triable for any other offense whatever committed before his extradition."

2. The court erred in holding that a going back to Canada and voluntarily returning to the United States by defendant while on bail to appear for trial in the recorder's court of Detroit, to which he had been extradited and was held for trial, and for which trial he was presumably within the United States, and where he was urging his trial in said recorder's court, was such a return to his country (Canada) as is accorded him by the treaty and laws under which he was surrendered to the United States on the extradition warrant, and such as would render him subject to the arrest and trial here sought.

15 3. The court erred in holding that the defendant was subject to the arrest on the capias issued out of the United States district court in this cause.

4. The court erred in directing defendant's arrest and holding him under arrest on said capias.

5. That the court erred in not granting the prayer of said *habeas corpus* petition that defendant be relieved from said detention and imprisonment.

6. The court erred in remanding defendant to the custody of the marshal and holding him for trial pursuant to said arrest on said charge in said United States court.

Wherefore, petitioner and appellant prays that an order be entered by this court, setting aside the order of the district court in remanding the petitioner to the custody of said marshal, and that an order be entered discharging him in accordance with the prayer of said petitioner in said *habeas corpus* proceeding.

Dated Detroit, July 7th, 1897.

E. H. SELLERS, *Attorney for Appellant.*
CASSIUS HOLLENBECK, *Of Counsel.*

16 Afterwards, at a session of the district court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment at the district court room, in the city of Detroit, in said district, on Wednesday, the seventh day of July, in the year of our Lord one thousand eight hundred and ninety-seven.

Present: The Hon. Henry H. Swan, district judge.

In the Matter of the Petition of THOMAS COSGROVE for Writ of *Habeas Corpus.*

This cause having been brought on to be heard before the U. S. court of appeals, sixth circuit, on appeal from this district, and the petition having been dismissed by that court for want of jurisdiction, upon suggestion of said circuit court of appeals that an appeal be allowed petitioner to the U. S. Supreme Court, and that petitioner be released upon his own recognizance pending said appeal, it is ordered that said petitioner, Thomas Cosgrove, be, and he is

hereby, released on his own recognizance pending said appeal, and that a copy of this order be served upon Eugene D. Winney, U. S. marshal for the eastern district of Michigan, in whose custody said petitioner now is.

Dated Detroit, July 7th, 1897.

HENRY H. SWAN,
District Judge.

17 United States Supreme Court.

UNITED STATES OF AMERICA, } ss:
Eastern District of Michigan, Southern Division, }

To Alfred P. Lyon, United States district attorney for the eastern district of Michigan, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States Supreme Court, to be holden at the city of Washington, on the 10th day of August next, pursuant to an appeal filed in the clerk's office of the district court of the United States for the eastern district of Michigan, southern division, wherein Thomas Cosgrove is petitioner and appellant, in the matter of Thomas Cosgrove, petitioner, for writ of *habeas corpus*, to show cause, if any there be, why the final decision rendered against the said appellant, as in the said appeal mentioned, should not be reversed and appellant discharged from said imprisonment and detention by said district court.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 12th day of July, in the year of our Lord one thousand eight hundred and ninety-seven, and of the Independence of the United States of America the one hundred and twenty-first.

HENRY H. SWAN,
District Judge.

Received copy of above citation.

ALFRED P. LYON,
U. S. Attorney.

Detroit, July 12, '97.

18 The District Court of the United States for the Eastern District of Michigan.

In the Matter of the Petition of THOMAS COSGROVE for a Writ of *Habeas Corpus.*

EASTERN DISTRICT OF MICHIGAN, *ss:*

I, Darius J. Davison, clerk of the district court of the United States for the eastern district of Michigan, do hereby certify the foregoing to be a transcript of the record and proceedings in the matter above entitled; that I have carefully compared the same with the original files and records of said matter in my office, and find the same to be a true copy of said originals and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Detroit, in said district, this twelfth day of July, A. D. 1897.

[Seal of the U. S. District Court, Eastern District of Mich.]

D. J. DAVISON, *Clerk.*

Endorsed on cover: Case No. 16,675. E. Michigan D. C. U. S. Term No., 172. Thomas Cosgrove, appellant, *vs.* Eugene D. Winney, United States marshal for the eastern district of Michigan. Filed September 24th, 1897.